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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,047	06/11/2001	Akira Oomori	35.G2819	2412
5514	7590	06/10/2005	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			LEE, TOMMY D	
			ART UNIT	PAPER NUMBER

2624

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/877,047

Applicant(s)

OOMORI, AKIRA

Examiner

Thomas D. Lee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20050317</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office action is responsive to applicant's amendment filed March 14, 2005.  
Claims 18-30 are pending.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 depends from now-canceled claim 17. Claim 20 should be amended to depend from a claim that is now pending.

### ***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 18-28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,361,143 (Nakayama et al.).

Regarding claims 18-21, Nakayama et al. disclose an image processing apparatus comprising: an image reading unit adapted to read a document image (multi-color original reading means 1 (Fig. 1)); a designating unit adapted to designate at least one of a plurality of partitioned image storage regions of a memory medium (data of subpages read by reading means stored in each area in memory means 2 (column 3,

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lines 3-6), P file stores integrated data, data for blue color and those for a red color (column 4, lines 47-48; Figs. 2-a and 2-b)); and a mode setting unit adapted to set a reading mode, before a reading operation of said image reading unit, the reading mode being one of a first mode in which a document is read both as a color image and as a monochrome image to be stored both as color image data and as monochrome image data in at least one of the image storage regions designated by said designating unit, and a second mode in which a document is read as the monochrome image to be stored as the monochrome image data in at least one of the image storage regions designated by said designating unit (in multi-color mode, black (monochrome) data and color data read and stored (column 4, lines 26-48); in monochrome mode, only black data read and stored (column 4, lines 49-55)). The image processing apparatus further comprises a transmission unit adapted to transmit to a destination apparatus, from among the color image data and the monochrome image data stored in the memory medium, image data suitable for the destination apparatus (when other party is capable of multi-color printing, integrated data and data of each color transmitted (column 4, line 67 – column 5, line 3); otherwise, either only integrated data or monochrome data are transmitted (column 5, lines 21-28)); a determining unit adapted to determine whether a document is one of a color document and a monochrome document (judgment of color mode (column 4, lines 26-31), wherein, when said determining unit determines in the first mode that the document is a color document, both the color image data and the monochrome image data are stored as the document image data in the memory medium (storage of both types when multi-color mode is judged (column 4, lines 26-

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48)). Image data for a plurality of documents, which are continuously scanned, are stored in the memory medium (continuous scanning and storage until last page is reached (column 4, lines 56-61)).

Regarding claims 22-26, Nakayama et al. disclose an image transmitting apparatus comprising: an image reading unit adapted to read a document image (multi-color original reading means 1 (Fig. 1)); a designating unit adapted to designate at least one of a plurality of partitioned image storage regions of a memory medium (data of subpages read by reading means stored in each area in memory means 2 (column 3, lines 3-6), P file stores integrated data, data for blue color and those for a red color (column 4, lines 47-48; Figs. 2-a and 2-b)); and a mode setting unit adapted to set one of a first mode in which a document is read in a plurality of formats by said image reading unit to be stored as image data in the plurality of formats in at least one of the image storage regions designated by said designating unit, and, from among the image data in the plurality of formats stored in at least one of the image storage regions, image data in a format suitable for a destination apparatus is transmitted to the destination apparatus, and a second mode, in which a document is read in a single format to be stored as image data in the single format in at least one of the image storage regions designated by said designating unit, and the image data in the single format stored in the at least one of the image storage regions is transmitted to the destination apparatus (in multi-color mode, black (monochrome) data and color data read and stored (column 4, lines 26-48); in monochrome mode, only black data read and stored (column 4, lines 49-55)). The document is scanned both as a color image and a monochrome image, in

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the first mode, and the document is scanned as a monochrome image, in the second mode (as mentioned above). The image transmitting apparatus further comprises a determining unit adapted to determine a format of a document, wherein image data in a format corresponding to a determination result obtained by said determining unit is stored in one of the image storage regions, in the first mode (judgment of color mode (column 4, lines 26-31); storage of both types when multi-color mode is judged (column 4, lines 26-48)). Said determining unit determines whether the document is one of a color document and a monochrome document (judgment of color mode (column 4, lines 26-31)); and when said determining unit determines in the first mode that the document is a color document, both color image data and monochrome image data are stored as the document image data in the memory medium (storage of both types when multi-color mode is judged (column 4, lines 26-48)). Image data for a plurality of documents, which are continuously scanned, are stored in the memory medium (continuous scanning and storage until last page is reach (column 4, lines 56-61)).

Claims 27 and 28 are method claims corresponding to above-rejected apparatus claims 18 and 22, respectively. The steps recited in these claims are provided in the facsimile apparatus disclosed in Nakayama et al., as set forth above.

***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakayama et al.

Claims 29 and 30 recite a program storage medium storing a program for performing the steps of above-rejected claims 27 and 28, respectively. While Nakayama et al. do not disclose a program storage medium, it is generally well known to one of ordinary skill in the art that processing steps are commonly stored as a program in a memory disk, or the like, to be read by a central processing unit of an apparatus, and it would have been obvious to provide a program storage medium in Nakayama et al., so as to enable the apparatus to perform the processing steps.

### ***Response to Arguments***

8. Applicant's arguments filed in response to the prior rejection of claims 1-17 (now canceled) as set forth in applicant's response, have been fully considered but they are not persuasive. Applicant asserts that Nakayama et al. do not teach or suggest a mode setting unit adapted to set a first mode, in which a document is read and stored both as a color image and in addition as a monochrome image, and a second mode, in which a document is read and stored as a monochrome image (page 9 of applicant's response). Contrary to applicant's assertion, this limitation is disclosed in Nakayama et al. (in multi-color mode, black (monochrome) data and color data (blue and red) read and stored (column 4, lines 26-48); in monochrome mode, only black data read and stored (column 4, lines 49-55)).

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas D. Lee whose telephone number is (571) 272-7436. The examiner can normally be reached on Monday-Friday (7:30-5:00), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas D. Lee  
Primary Examiner  
Art Unit 2624

tdl  
June 7, 2005